

In The United States District Court For The District of Delaware

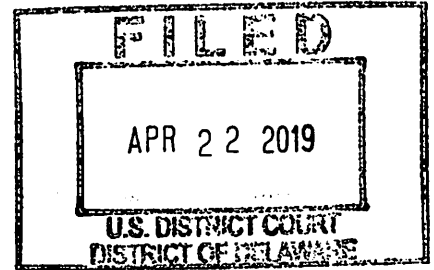
De-Shawn Drungo vs

v

SET William Kuschel

ca No. 14-1135-CFC

Motion to reconsider And  
motion to Appeal to  
the 3rd circuit of  
Appeals once Again



1. Plaintiff De-Shawn Drungo is A Pro Se litigant
2. Plaintiff case has Already been reversed by the 3rd circuit Court of Appeals for Philadelphia and again the lower Court the United States District Court has thrown the case out and or wrongfully dismissed the case this time under Qualified immunity As if Anyone with Common sense Doesn't know to sexually Assault A man is illegal. and to use your official Capacity and or Job Position to commit A crime for his own Voyeurism is outrageously A Shock to A Man's conscience.
3. The New Judge Connolly has Dismissed two cases that have merit and Genuine factual material that exist to Preclude Summary Judgment. These Facts Disputed Should of only been decided in front of A Jury
4. The Newly Appointed Judge Connolly has thrown out Two cases that has already been reversed And remanded one by the Honorable Judge Sleet And the other by the 3rd circuit Court of Appeals for Philadelphia.

Frisolous violating of the 11th Amendment.

The Plaintiff sued the Defendant in both his individual capacity and official capacity.

Due to the nature of this sexual assault and the fact that SGT Kuschel has more victims than Bill Cosby and has used his job position to further his voyeurism which is clearly a violation of clearly established constitutional rights. Please see Marlow V Fitzgerald 1457 U.S. 800, 818, 102 SCT. 2727 (1982).

Clearly no reasonable officer could have believed his actions of sexual assault and or using his official capacity to perpetrate or penetrate prisoners for his own voyeurism and or sexual desires was reasonable or appropriate. Please see Green V Bauli 792 F.Supp. 928 940 SDNY (1992).

Also prison officials who violate regulations or law lose their immunity beings the he was sexually assaulting for his own desires he was no longer performing discretionary functions.

Please see Hafer V Melt 112 S.Ct. at 363 where the Nations Highest Court rejects the argument of qualified immunity. Also see O'Brien V Borough of Woodbury Heights 679 F.Supp 429 435-36 (NM 1988) no defense for official who clearly engaged in unconstitutional conduct.

Please see Davis V. Scherer 468 U.S. at 197

Johnson V Boreani 946 F.2d 67, 71-72 (8th cir 1991)

Estrada V Adorno V Gonzales 861 F2d 304, 306 (5th cir 1988)

Officials are also expected to use common sense in assessing their legal obligation. However William Kuschel's common sense went out the window due to not being able to control his own sexual desires.

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The Defendant Cannot ~~Escape~~ Liability by attempting to make fine distinctions Please see Powell v Lennon 914 F.2d 1459, 1464 11th Cir 1990 unlawfulness and exposure.

Discovery has been deprived in which the Plaintiff can show more victims and the propensity of this sexual predator of a officer.

Counsel has been needed to obtain the discovery for quite some time and now the Plaintiff may have to ~~wait~~ for Appointment of Counsel to continue on to the 3rd circuit Court of Appeals

For the Judge to Disregard Genuine factual material that exists making a decision before a Jury being able to is Contrary to United States Supreme Court Law also that of the 3rd circuit court of Appeals.

It is Common sense that the Golden state killer is NOT protected by the Eleventh Amendment because he was a COP. Their fore SGT Kuschel's Bogus claim of Qualified immunity is NOT A Defense for him being A sexual predator which is Absolutely disgusting NOT only must the 3rd circuit review this insidious case again the world should ALSO. Threw all news and social media these Assaults And a Combination other things Mainly the Games the Courts play lead to the Uprising and loss of lives lives who will prosecute the Correctional officers sure NOT their attorney's.

This court Quoted the following and then made a decision Contrary where it said:

Last Year, the United States Court of Appeals for the Third Circuit joined several other circuits to hold that sexual abuse of prisoners by prison officials can violate the 8th Amendment. *Richs V Shower* 891 F.3d 468, 473 (3d Cir 2018) The Third Circuit stated that the sexual abuse of prisoners, once overlooked as a distasteful blight on the prison system offends our most basic principle of just punishment," and invades the most basic of dignity interests: to be treated as a human being and is not part of the penalty that criminal offenders pay for the offenses against society. *Quinn v. Boddie V Schneider* 105 F.3d 857, 861 (2d Cir 1997)

The Court clarified that a single incident if sufficiently serious or severe, can run afoul of the 8th Amendment as surely as can multiple, less egregious incidents *Richs* 891, F.3d at 477.

Objectively serious sexual contact would include sexualized fondling, coerced sexual activity, combinations of ongoing harassment and abuse and exchanges of sexual activity for special treatment or to avoid discipline and in context, other ~~sexual~~ sexualized touching may be objectively serious if it violates prison procedures. Where clearly sexual assault violates all law and policy and procedure

Now to evaluate the Prongs of the doctrine of Qualified immunity. (1) The Plaintiff provide Grievances Affidavit's, Medical Grievance And A sworn and Verified Complaint (2) The Affidavit's Clearly Provide material fact for dispute clearly describing Assault. That clearly Violated the Plaintiff's Eighth Amendment. (3) The Plaintiff suffer Physical harm and experience Nightmares And suffer's from Flashback Post-Traumatic Stress-Disorder (PTSD).

1) The Defendant clearly Violated the Plaintiff's 8th Amendment Right to be free of A Cruel And Unusual Punishment.

2) Per Prisoner Rape Elimination Act To sexually Assault the Plaintiff and Common sense clearly establish Sexual Assault with his Voyeurism was inappropriate conduct.

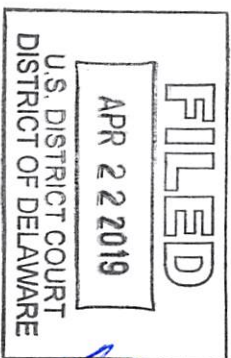
A Genuine issue of material fact will preclude summary Judgment on Qualified immunity *Giles v. Kearney* 571 F.3d 318 326 3d Cir 2009 see also *Corley v. Klem* 298 F.3d 271, 278 (3d Cir 2002) noting that a decision on Qualified immunity will be premature when there are unresolved disputes of historical fact relevant to the immunity analysis. The Court must deny summary Judgment if, on Plaintiff version of the facts, Defendant Violated Plaintiff's clearly established constitutional rights.

Lastly somehow the Court Relies on the words of A Doc Department of Corrections Psych As if they would ever say anything to benefit A Plaintiff.

For the following Reasons  
the Plaintiff Ask that this  
motion to reconsider be  
Granted Respectfully submitted  
D. Dgr



Shaw's Drivings  
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